

JS 44 (Rev. 06/17)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

MIKAL HODGE AND NAKISHA HODGE, H/W

(b) County of Residence of First Listed Plaintiff PHILA
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

NICHOLAS L. PALAZZO, ESQUIRE
2541 S. BROAD STREET, PHILA., PA 19148; 215-551-9099

DEFENDANTS

THE UNITED STATES OF AMERICA
615 CHESTNUT STREET, SUITE 1250, PHILA. PA 19106

County of Residence of First Listed Defendant PHILA
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☐ 3 Federal Question (U.S. Government Not a Party)
- ☒ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

| CONTRACT | TORTS | FORFEITURE/PENALTY | BANKRUPTCY | OTHER STATUTES | |
|---|---|--|---|---|---|
| <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise | PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input checked="" type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice | <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability | <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions | <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609 | <input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes |

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from Another District (specify)
- ☐ 6 Multidistrict Litigation - Transfer
- ☐ 8 Multidistrict Litigation - Direct File

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

VI. CAUSE OF ACTION

Brief description of cause:
MOTOR VEHICLE ACCIDENT

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$
250,000.00

CHECK YES only if demanded in complaint:
JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE
08/10/2017

SIGNATURE OF ATTORNEY OF RECORD
NICHOLAS L. PALAZZO, ESQUIRE

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

MIKAL HODGE AND
NAKISHA HODGE, h/w

vs.

THE UNITED STATES OF AMERICA
615 Chestnut Street, Suite 1250
Philadelphia, PA 19106

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COMPLAINT IN CIVIL ACTION – PREMISES LIABILITY

PARTIES TO THE CASE

1. Plaintiffs sre husband and wife and adult individuals residing at 547 S Redfield Street Philadelphia, PA 19143.

2. Defendant, United States of America, is the Federal Government which can be served at the addresses listed above and at all times material hereto was the owner of and employed the operator of a certain Amtrak motor vehicle which was involved in the accident hereinafter described.

3. At all times material hereto, the United States of America was acting by and through its employees, agents and work persons, specifically, Amtrak employee, Robert Baxter Jr., who was driving and operating the vehicle that struck Plaintiff, Mikal Hodge as more fully set forth below.

4. The Defendant, United States of America is to be served at the following addresses: Attorney General Loretta Lynch, U.S. Department of Justice, 950 Pennsylvania Avenue, NW, Washington, DC 20530-0001, ATTN: Service Process Clerk; and to Zane

David Memeger, United States Attorney for the Eastern District of Pennsylvania, U.S. Attorney's Office, 615 Chestnut Street, Suite 1250, Philadelphia, PA 19106, ATTN: Service Process Clerk.

JURISDICTION AND VENUE

5. Jurisdiction of this Court is based upon 28 U.S. C. Section 1346(b)(1) and 28 U.S.C. Section 2674.

6. This Court has proper venue pursuant to 28 U.S.C. Section 1402(b).

FACTS OF THE CASE

7. On or about February 18th 2016 Plaintiff Mikal Hodge was in Philadelphia at a Sunoco Gas Station when his vehicle was struck by an Amtrak vehicle driven by Robert Baxter, Jr. Mr. Baxter negligently reversed his vehicle into the front of Mr. Hodge's vehicle causing damage to both vehicles and causing Mr. Hodge to sustain injuries as further detailed below.

8. Plaintiffs have attempted to negotiate the claim with Defendant's claim processor, Broadspire, however, the parties could not come to an agreement. In this regard, Plaintiffs have exhausted all administrative remedies available to them.

COUNT I - NEGLIGENCE

PLAINTIFF, MIKAL HODGE VS. DEFENDANT

9. Plaintiffs hereby incorporates all preceding paragraphs, inclusively, as if fully set forth at length.

10. Defendant's negligence consisted of the following: (1) failing to yield to traffic

with the right of way, (2) reversing without ensuring that it was safe to do so, (3) failing to abide by the assured and clear distance ahead rule, (4) reversing without looking, (5) traveling at an unreasonable speed under the circumstances.

11. At all times material the vehicle that caused the accident in question was not registered in the Commonwealth of Pennsylvania thereby establishing Plaintiff, Hodge as full tort pursuant to the PA Motor Vehicle Code.

12. As a direct and proximate result of Defendant's aforesaid negligence, Defendant, directly and proximately caused Plaintiff suffer serious and painful injuries, some of which are permanent in nature and which include but are not limited to the following: *sprains and strains in his spine, head injury, and a herniated disc in his spine requiring pain management intervention and care.*

13. As a direct and proximate result of the negligence and carelessness of Defendant, Plaintiff has been and may continue to be obliged to receive and undergo medical attention and care and to incur various expenses for the injuries he has suffered for an indefinite time in the future.

14. As a direct and proximate result of the negligence and carelessness of Defendant, Plaintiff, has suffered severe physical pain and mental anguish and may continue same for an indefinite time in the future.

15. As a direct and proximate result of the negligence and carelessness of Defendant, Plaintiff, has been prevented from attending to his usual duties and daily activities and verily believes that he may be prevented from same for an indefinite time in

the future.

16. As a direct and proximate result of the negligence and carelessness of Defendant, Plaintiff, has been prevented from attending to his usual duties and may have been caused to suffer a loss of wages and may be likely to suffer future loss of wages and has suffered a loss in his earning capacity.

WHEREFORE, Plaintiff, Mikal Hodge prays for judgment in his favor and against Defendant for a sum in excess of One Hundred and Fifty Thousand (\$150,000.00) Dollars plus costs.

COUNT II - LOSS OF CONSORTIUM

PLAINTIFF, NAKISHA HODGE VS. UNITED STATES OF AMERICA

17. Plaintiff incorporates all preceding paragraphs as though fully set forth at length herein.

18. At the time of the accident in question Plaintiffs were married.

19. As a direct and proximate result of the negligence of Defendant, Plaintiff Joseph Burke was caused to suffer a loss of consortium, affection, assistance and companionship of his wife all to his great detriment and loss.

WHEREFORE, Plaintiff, NAKISHA HODGE prays for judgment in her favor and against Defendant, City of Philadelphia, joint and/or severally for a sum in excess of One Hundred and Fifty Thousand (\$150,000.00) Dollars plus costs.

Respectfully Submitted,

DEFINO LAW ASSOCIATES, P.C.


NICHOLAS L. PALAZZO, ESQUIRE

Attorney for Plaintiff

2541 S. Broad Street

Philadelphia, PA 19148

215-551-9099

215-551-4099

npalazzo@definolawyers.com

DATED: 8/10/17

VERIFICATION

I, MIKAL HODGE, the Plaintiff, herein verify that the facts contained in the attached Complaint in Civil Action are true and correct to the best of my knowledge, information and belief; and I realize that statements made herein are subject to the penalties of 18 Pa. C.S. § 4904, relating to unsworn falsification to authorities.

DATED:

8/10/17


MIKAL HODGE